

NANCY K LAYNE  
c/o 95580 South Coos River Lane  
Coos Bay, Oregon  
Plaintiff/Creditor

**UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re:  
RESIDENTIAL CAPITAL, LLC, et al.,  
Debtors.

Case No. 12-12020 (MG)  
Chapter 11  
Claim No. 292

LINTON C. LAYNE  
NANCY K. LAYNE  
Plaintiffs/Creditors

vs.

GMAC MORTGAGE, LLC;  
RESIDENTIAL CAPITAL, LLC,  
Defendants.

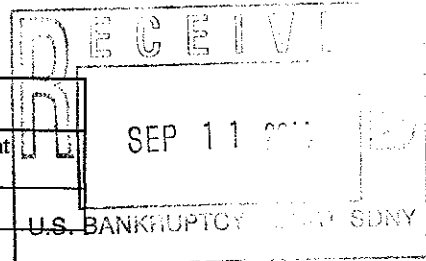
**PLAINTIFF'S OBJECTION TO  
SUPPLEMENTAL DECLARATIONS OF  
DEANNA HORST IN SUPPORT OF THE  
RESCAP BORROWER CLAIMS TRUST'S  
REPLY IN SUPPORT OF ITS SIXTY-  
NINTH OMNIBUS OBJECTIONS TO  
CLAIMS (NO-LIABILITY BORROWERS  
CLAIMS) AS TO CLAIM NO. 292 (1279)**

**REQUEST FOR SUMMARY JUDGMENT**

**AFFIDAVIT OF NANCY KAY LAYNE**

Linton C. Layne, Nancy K. Layne

Proposed Claim(s) to be Disallowed and Expunged			
Claim No(s); Date Filed	Debtor	Classification	Amount
292	GMAC Mortgage,	Secured	\$35,200.00



COME NOW the Plaintiffs/Creditors above-named, and hereby file PLAINTIFF'S  
OBJECTION TO SUPPLEMENTAL DECLARATIONS OF DEANNA HORST IN SUPPORT OF  
THE RESCAP BORROWER CLAIMS TRUST'S REPLY IN SUPPORT OF ITS SIXTY-NINTH  
OMNIBUS OBJECTIONS TO CLAIMS (NO-LIABILITY BORROWERS CLAIMS) AS TO CLAIM  
NO. 292 (1279) and PLAINTIFFS REQUEST FOR SUMMARY JUDGMENT, and  
AFFIDAVIT OF NANCY KAY LAYNE.

- 1 -

PLAINTIFF'S OBJECTION TO SUPPLEMENTAL DECLARATIONS OF DEANNA HORST IN SUPPORT OF THE  
RESCAP BORROWER CLAIMS TRUST'S REPLY IN SUPPORT OF ITS SIXTY-NINTH OMNIBUS OBJECTIONS TO  
CLAIMS (NO-LIABILITY BORROWERS CLAIMS) AS TO CLAIM NO. 292, REQUEST FOR SUMMARY JUDGMENT,  
AFFIDAVIT OF NANCY KAY LAYNE

**FACTS**

The court directed the Defendants to produce proof of claims and Defendants have not complied to the Order with verified evidence.

The Claim No. 1279 does not reflect the claim number that is associated to the subject property Claim No. 292 is for the Layne. Deanna Horst, in her "DECLARATION" Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct, wherefore she would be perjuring herself in front of this court on that fact alone.

UCC § 3-501 (a) which clarifies that only the "person entitled to enforce the instrument" may make "presentment," i.e., a demand related to the Note, since only a copy of a note has been presented it is insufficient.

The Defendants have not stated specifically why they choose the trust they did, and discarded the other.

Deanna Horst, in her "DECLARATION" is claiming that Citibank's, La Salle Bank, Bank of America and U.S. Bank, National Association were all appointed as trustees and yet no NOTICE per Section 12 of the Deed of Trust exists.

Deanna Horst, in her "DECLARATION" is claiming that Citibank's, La Salle Bank, Bank of America and U.S. Bank, National Association were all appointed as

1 trustees, under Section 21 of the Deed of Trust there has been no notice as to  
2 whether the transfer was "Without conveyance of the Property".  
3

4 The Defendants have not provided related documents that may include faxes,  
5 emails, letters, and other written things that shed light on what caused the loan to  
6 come into existence as to the sale and release of such interest or duties up to  
7 securitization from Sierra Pacific to Residential Funding Company to Citibank, N.A.  
8

9  
10 Deanna Horst, in her "DECLARATION" has not specified the trustee legal rights in  
11 the NOTE, GMAC has attempted "presentment" according to UCC § 3-501(a). The  
12 right to make demand or presentment for payment is reserved solely "by or on  
13 behalf of a person entitled to enforce" the Note, a reference to UCC 3-301, yet no  
14 evidence exists that GMAC has the right to enforce.  
15

16  
17 Only Mr. Linton Layne filed a Bankruptcy, which would cause Deanna Horst in her  
18 "DECLARATION" stated, I declare under penalty of perjury that the foregoing is  
19 true and correct, wherefore she would be perjuring herself in front of this court  
20 again.  
21

### 22 **LEGAL ARGUMENT**

23 The Supreme Court of Missouri in CACH v ASKEW found "For that reason, a  
24 document that is prepared by one business cannot qualify for the business records  
25 exception merely based on another business's records custodian testifying that it  
26 appears in the files of the business that did not create the record. *State v.*  
27

1 *Anderson*, 413 S.W.2d 161, 165 (Mo. 1967); *Zundel v. Bommarito*, 778 S.W.2d  
2 954, 958 (Mo. App. 1989)”

3  
4 **Standing at Inception**

5 There is no note and security instrument that has been provided evidencing any  
6 debt that may be owed to the Defendant. Defendants have not filed a verified  
7 Complaint based on that Note, see *Feltus v. U.S. Bank. N.A.*, 80 So. 3d 375 (Fla. 2d DCA  
8 2012)

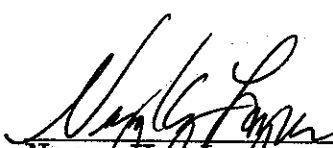
9  
10 **Memorandum in Support of Summary Judgment**

11 Summary Judgment is appropriate when there are no material facts in dispute, and the  
12 moving party is entitled as a matter of law. *Volusia County v. Aberdeen at Ormand Beach*  
13 L.P. 760 So. 2d 126, 130 (Fla. 2000). There are no disputed facts here.

14 **WHEREFORE**, Plaintiffs pray that this Court enter an order that:

- 15 A. As no evidence exists of authenticated nor validated Chain of Title, Sierra  
16 Pacific Mortgage made no claim of monies owed, the court orders the  
17 Document # 2006-030002 Deed of Trust executed on March 10, 2006 and  
18 recorded within the county recorders office at Washington County Oregon on  
19 March 15, 2006 as satisfied.  
20  
21 B. Provide adequate relief for the violations of the fair debt collection practices act.  
22 C. Return of funds paid to all parties not eligible to receive payments.  
23 D. This case shall be closed with prejudice.

24 DATED: September 9, 2014

25  
26   
27 Nancy Kay Layne  
28 Plaintiff / Creditor

1 In re:  
2 RESIDENTIAL CAPITAL, LLC, et al.,  
3 Debtors.

) Case No. 12-12020 (MG)  
) Chapter 11  
) Claim No. 292

**AFFIDAVIT OF NANCY KAY LAYNE**

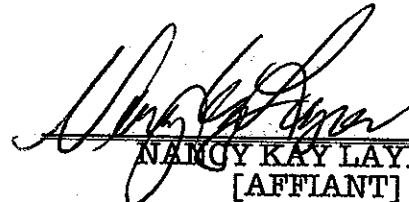
4 LINTON C. LAYNE  
5 NANCY K. LAYNE  
6 Plaintiffs/Creditors  
7 vs.

8 GMAC MORTGAGE, LLC;  
9 RESIDENTIAL CAPITAL, LLC,  
10 Defendants.

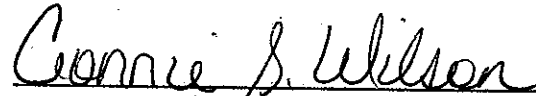
11 I, [AFFIANT], being first duly sworn, say:

- 12 1) I make this affidavit in support of PLAINTIFFS motion for summary  
13 judgment. All facts and statements contained in this affidavit are within my  
14 own personal knowledge. If called as a witness at trial, I would testify to all  
15 matters referred to here.
- 16 2) There is no evidence that a transfer of ownership of interest in the security  
17 interest or note in the Washington County Records Office, where land  
18 records are to be recorded and affiant believe no such evidence exists.
- 19 3) There is no evidence that Linton Cecil Layne and or Nancy Kay Layne  
20 received a conformed copy of the Note and the Security Instrument  
21 according to paragraph 14 in the Deed of Trust, and affiant believe no such  
22 evidence exists.
- 23 4) There is no evidence that would secure the Lender's repayment of  
24 indebtedness by Borrower's note dated the same date as the security  
25 instrument; and the affiant believe that no such evidence exists.  
26  
27  
28

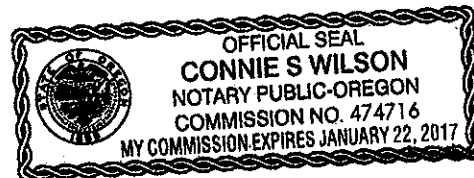
- 1 5) There is no evidence of a New Lender or an assignment of Lender per the  
2 Deed of Trust; and affiant believes that no such evidence exists.  
3  
4 6) There is no evidence of a NOTICE to the Borrowers as to Changes to the  
5 Lender or the assigns via delivery or Certified Mail; and affiant believe that  
6 no such evidence exists.  
7  
8 7) There is no evidence that the original unaltered Note with the Security  
9 Instrument exists within the same ownership; the affiant believes that no  
10 evidence to the contrary can be found.  
11  
12 8) There is no evidence of Defendants having rights to collect and enriching  
13 themselves at the Plaintiffs expense; and affiant believes that no evidence to  
14 the contrary exists.

15  
16   
NANCY KAY LAYNE  
[AFFIANT]

17 SUBSCRIBED AND SWORN TO before me on 08 September 2014.

18  
19   
20 Notary Public for Oregon

21 My commission expires: Jan. 22, 2017



1 In re:  
2 RESIDENTIAL CAPITAL, LLC, et al.,  
3 Debtors.

) Case No. 12-12020 (MG)  
) Chapter 11  
) Claim No. 292

**PROOF OF SERVICE**

4 LINTON C. LAYNE  
5 NANCY K. LAYNE  
6 Plaintiffs/Creditors  
7 vs.

8 GMAC MORTGAGE, LLC;  
9 RESIDENTIAL CAPITAL, LLC,  
10 Defendants.

11 Honorable Martin Glenn  
12 United States Bankruptcy Court for the Southern District of New York  
13 Alexander Hamilton Custom House  
14 One Bowling Green  
15 New York, New York 10004-1408  
16 Certified Mail # 7013 1090 0001 4718 6288

17 Attention: Norman S. Rosenbaum and Jordan A. Wishnew  
18 counsel to the ResCap Borrower Claims Trust  
19 Morrison & Foerster LLP  
20 250 West 55th Street  
21 New York, NY 10019  
22 USPS regular mail and Via fax # (212) 468-7900

23 Attention: Linda A. Riffkin and Brian S. Masumoto  
24 Office of the United States Trustee for the Southern District of New York  
25 U.S. Federal Office Building  
26 201 Varick Street, Suite 1006  
27 New York, NY 10014  
28 USPS regular mail and Via fax # 212-668-2255

Attention: Daniel J. Flanigan  
The ResCap Borrower Claims Trust  
Polsinelli PC  
900 Third Avenue  
21st Floor  
New York, NY 10022  
USPS regular mail and Via fax # 212.684.0197

I am a resident of the state of Oregon. I am a competent person 18 years of age or older. I am not an attorney for a party to this case, or an officer, director or employee of any party to this case. On the 8<sup>th</sup> day of September 2014, I served the above-named parties by delivering to parties a copy of these papers, each of which was a true copy of the original.

Toni S. Eberlien

**ORDER**

In re:  
RESIDENTIAL CAPITAL, LLC, et al.,  
Debtors.

) Case No. 12-12020 (MG)  
) Chapter 11  
) Claim No. 292

**[PROPOSED] ORDER**

LINTON C. LAYNE  
NANCY K. LAYNE  
Plaintiffs/Creditors  
vs.  
GMAC MORTGAGE, LLC;  
RESIDENTIAL CAPITAL, LLC,  
Defendants.

After this matter being herd, IT IS HEREBY ORDERED THAT:

1] As no evidence exists of authenticated or verified Chain of Title, Sierra Pacific Mortgage made no claim of monies owed, the court orders the Document # 2006-030002 Deed of Trust executed on March 10, 2006 and recorded within the county recorders office at Washington County Oregon on March 15, 2006 as satisfied.

2] Provide adequate relief for the violations of the fair debt collection practices act.

3] Return of funds paid to all parties not eligible to receive payments.

4] This case shall be closed with prejudice.

IT IS SO ORDERED.

DATE \_\_\_\_ of \_\_\_\_ 2014.